



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

The Patent application of:

Applicant(s): Marinus Doomernik
Serial No: 09/954,690
Filing Date: September 12, 2001
Title: BATTERY TESTER LABEL
Examiner: Dah-Wei D. Yuan
Art Unit: 1745
Docket No. AVER.P3204US

RESPONSE TO OFFICE ACTION DATED SEPTEMBER 2, 2003

Mail Stop Non-Fee Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Favorable reconsideration of the above-referenced application is respectfully requested in view of the following attachments:

Remarks

Amendments to the Claims

In the event any fee or additional fee is due in connection with the filing of this paper, the Commissioner is authorized to charge those fees to our Deposit Account No. 18-0988 (under the above Docket Number AVER.P03204US). In the event an extension of time is needed to make the filing of this paper timely and no separate petition is attached, please consider this a petition for the requisite extension and charge the fee to our Deposit Account No. 18-0988 (under the above Docket Number AVER.P03204US).

Remarks

The various parts of the Office Action are discussed below under similar headings.

Claim Rejections - 35 USC § 102 and § 103

Claims 17-20 stand rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,760,588 to Bailey ("Bailey"). Claim 21 is rejected as being obvious over Bailey as applied to claims 17-20 and further in view of U.S. Patent No. 3,658,611 to Gray ("Gray"). Claim 22 is rejected as being obvious under 35 U.S.C. 103(a) over Bailey as applied to claims 17-20 and further in view of U.S. Patent No. 6,436,496 to Rackovan, et al. ("Rackovan"). Applicant has amended claim 17 and respectfully submits that all pending claims are now in a condition for allowance.

Applicant has amended claim 17 to include that the base film is an insulator for the claimed battery power indicator label. Bailey, however, requires an additional material other than its base film for use as its insulator in order to protect the tester part of the label from the battery cell itself. Unlike claim 17, Bailey's base film (54) is not the label's insulator. Bailey's invention cannot be made without this additional material and thus does not teach amended claim 17. Since amended claim 17 recites a battery power indicator label in which the label's film is used as the insulating material, the need for an additional layer of insulating material as contemplated by Bailey and the other prior art of record is eliminated. Bailey does not anticipate claim 17, and applicant submits the claim is allowable.

Since pending claims 18-22 depend from claim 17, they necessarily include all of its limitations. Therefore, like claim 17, claims 18-22 do not require the use of Bailey's additional insulating material. Furthermore, nowhere in the prior art of record is it contemplated to eliminate the need for the insulator. Accordingly, Bailey, alone or in combination with the other cited art, does not anticipate or render obvious these dependent claims.

Based on this, applicant respectfully submits that these references alone or in combination do not teach claim 17 or dependent claims 18-23. These claims are thus allowable, and the applicant respectfully requests withdrawal of the rejections.

Conclusion

This application is now in condition for allowance and an early action to that effect is earnestly solicited.

Respectfully submitted,

RENNER, OTTO, BOISSELLE & SKLAR, LLP

By 
Todd R. Tucker, Reg. No. 40,850

1621 Euclid Avenue
Nineteenth Floor
Cleveland, Ohio 44115
(216) 621-1113

CERTIFICATE OF MAILING (37 CFR 1.8a)

I hereby certify that this paper (along with any paper or thing referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Date: 11/3/03


Deirdre I. Preston

R:\T.Tucker\AVERY\IP3204\Reply to Office Action.wpd